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TO THE *Class (9)*
Gentlemen of the COMMITTEE,
Entrusted as AGENTS for
Directing and Managing the CONCERNS
OF THE
FREE BURGESSES,
RESPECTING THEIR
CHARTER RIGHTS.

SIRS,



R. *Whitfield* having favoured us with the Copy of a Letter sent to a Member of the Common Council, and one of the Gentlemen of that Body deputed to hold a Conference with some Gentlemen Burgesses, not Members of that Class, you have thought it so much to the Purpose, in explaining more fully the Constitutional Laws of this Corporation, that you have desired that it should be made public; to which, at your earnest Request, he hath agreed.

You have likewise approved of a Letter which I have wrote to a Gentleman of that Body, plainly (and I hope justly) stating the several Transactions relating to the Prifage-Grant, after a more particular Manner than has hitherto been done; and therein communicating my Sentiments, both as to the legal and equitable Right which the Burgesses have to that Revenue, being

being applied to the use of the Public ; and you have desired it may accompany Mr. *Whitfield's* Letter to the Press.

I the more cheerfully comply with your Request, in hopes thereby to prevent Persons being persuaded to believe, that the Steps which the Burgesses are taking, are calculated to inflame the Minds of People, at a critical Juncture, when public national Affairs are in an unhappy, fluctuating State.

If this had not been advanced in our Senate, a Place where we are of so great Importance among ourselves, (no matter how we appear to others) I should have thought what the Burgesses are desirous to effect, stood in no manner of Relation to State Affairs. If Nobody is to sue and be sued until the War is over, it may endanger some Gentlemen of very great Importance being half-starved.

I apprehend that nothing of the inflammatory Kind will appear in either Letter ; but on the contrary, a desire that Peace and Quiet may be established upon a sure Foundation, and that Law and Justice (which is only denied in Practice) may flow in its right Channel.

It is said, that in some Papers I have appeared severe upon Mr. Town-Clerk ; if so, I am sorry the Instances of his Conduct and Behaviour, as an Officer in the Service of the Public, occasioned me to think it necessary ; his Person, or Character, in any other Respect, I have not attempted to blemish. If in any Papers I have asserted Falsities, they will be found attended with Invitations to be detected. A mistaken Notion has prevailed with some, that I have dealt too freely with Characters ; my dealing has been only with Actions, the Actors are the Persons who have characterized themselves ; I have charged them with no other Instances of Conduct but what immediately relate to the Public, wherein the Interest of the Burgesses is concerned ; and as a Member in trust for the Concerns of the Public, it is a Duty incumbent on me and every other Member, to detect what they know, or even apprehend, to be wrong.

There is an Order of Council directing Mr. *Pole* to make Distress for Rent ; but none to censure him for paying back the Money he did to Mr. *Salisbury*. Now, if Trustees will not call the Public's Treasurer to account for paying so large a Sum without an Order of Council,
but

but oblige the Burgesſes to do it themſelves, can it be any Matter of Wonder they ſhould deſire to be releaſed from this Sort of Guardianship ?

By the late Charter-Grant, *clandeſtinely, illegally and ſurreptitiouſly* obtained in 1751, (like that from the late King *Charles the Second*,) there is Power given to the Recorder to make a Deputy; which Power was thought proper to be reſtrained by the Common Council, obliging him to give a Bond in the Penalty of Five Hundred Pounds not to make ſuch Appointment without their Approbation and Conſent; and as they have now, by an Order of Council, thought proper to recommend Mr. *Ralph Peters* to be the Recorder's Deputy, I ſubmit it to the Opinion of the Burgeſſes, whether this is, not exerciſing arbitrary Power in a double Capacity; firſt, by palming upon them an Officer, by Virtue of a Grant illegally obtained, neither tendered to the Burgeſſes for their Acceptance, nor ſo much as known to them, except by Hear-ſay. Secondly, making or recommending him as a Deputy by the Common Council, whoſe Power for ſuch like Work you have proteſted againſt. This however I look upon as only a Muſhroom Production,

In a Paper or two I have publiſhed, I have ſaid, that ſome Gentlemen of the Council declared they would pay no regard to what I ſaid or wrote. Declarations of this kind do well enough for Alehouſe Arguments; it is a ſhort Way of putting an end to what otherwiſe might prove Matter of knotty Debate. Some have gone further, and uſed Mr. Town Clerk unkindly (more ſo than I have ever done) by repreſenting him as a ——— not capable of writing. Another Gentleman, upon being told I ought to be answered; his Reply was, *Who the Devil can ?* tho' this Gentleman makes free with him by often making uſe of his Name in Converſation, yet I will venture to ſay, he holds no ſecret Correſpondence with him, he has no Pretence to be looked upon as a Conjuror. A Declaration to pay no regard to me, has been made in the Council Aſſembly, and not op- poſed? however, I have this to ſay, that if the Arguments made uſe of and publiſhed by the Deputies, in their Report of the late Conferences, are not taken notice of and confuted, they give Sanction to the Truth of my Aſ- ſertions.

Perſonal Affronts, by the Uſe of abuſive Words in the public Coun- cil, for my taking the liberty to expreſs my Sentiments as a Member in Truſt, are what I have ſo frequently met with, they make no Impreſ- ſion

sion uneasy to me; they are the sure Indication of a Cause not capable of being defended.

I am,

GENTLEMEN,

Your humble Servant,

SEPTEMBER 9, 1757.

Joseph Clegg.

At a Committee held the 8th Day of September, 1757.

WHEREAS there is a late Order of Council directing Mr. *Pole* to make Distress for Rent upon the Publick's Tenants, This is therefore to give Notice, from the said Committee appointed to prosecute such Measures as shall be judged legal and necessary for the supporting the Burgessees Rights and Privileges, that such Person or Persons, on whom any Distress is attempted to be made, will be defended by the Burgessees. And, to prevent any Person or Persons, being unwarily brought in to comply with any Demand or Requirement, of this, or any other Kind **PROTESTED AGAINST**, we publish this Resolution, in Confirmation of one of the same Tenor published before, by Order of the Committee.

A Letter wrote by Mr. *Peter Whitfield* to a Member of the Common Council, and another by Alderman *Clegg*, to a Gentleman of the same Body, as they are both expressive of a Desire to have (after a pacific Manner) the Constitutional Laws made the Rule of Conduct, with Respect to the Affairs of this Corporation, are ordered to be printed; that it may appear to the Public, in hopes to satisfy them, that nothing is either intended, desired, or expected, to inflame the Minds of the Burgessees, or occasion Disturbances of any Kind; but to express their ardent Zeal to procure their being reinstated in the Enjoyment of those Rights and Privileges, which, by their Charters, they are justly intitled to.

By Order of the Committee,

LIVERPOOL, AUGUST 15, 1757.

GOOD SIR,

HAVING had occasionally some Conversation with you upon the great Subject of the public Administration of the Town and Corporation Affairs, I beg leave to mention to you what appears to me of some Importance.

I apprehend there are now but very few Gentlemen even of the Council, who are not aware, from what hath passed, that that respectable Body hath not, within itself, the Power of making By-Laws and Orders, for the good Government of the Town by Virtue of any Authority granted by Charter ; and that consequently an ORDER OF COUNCIL will for the Future be esteemed to be but of a very precarious, indeterminate Force and Authority, except in the few trifling particulars which the Charter of King *William* the Third hath given them a Power to do : But that the Body of Burgeses, with their Mayor and Bailiffs have that Power vested only in themselves, by clear, unquestionable Declaration : *So far the Burgeses have prevailed.*

The Case is too evident to need further Explication, and too public to leave any Ground to suppose any valuable Part of the Body can be Ignorant of it : Every thing in Mr. Clegg's Papers and others, having been writ with the utmost Care, Deliberation, and Assurance ; which the original Papers referred to, and ready to be produced, will put beyond doubt or denial. What remains to be done ? The public Affairs should not rest in a State of Inaction ; and I need not mention the near or remote Consequences of their being transacted as hitherto ; nor of how essential Import it is that every Act relating to public Affairs be visibly supported by proper and adequate Authority, and not depend upon the good-will and pleasure of the Subject for it's Force and Efficacy. This is the present State our Affairs are visibly in. The Council can of itself do nothing.

It appears to me nothing can be more agreeable to Reason than to yield to the Necessity of Times and Things : I wish the Powers *that be* would summon a Common Hall, (as the Charter plainly directs) and by it's Authority establish at least a temporary Rule for necessary Transactions, liable to future Improvement.

What

What Objection lies against this? The most obvious and popular, if not the only one is, the Apprehension of such Assemblies becoming TUMULTUOUS, and so VAIN; but have we not had various Instances of the Contrary? The Disorders to which such annual Assemblies for Elections are liable, arise meerly from the interested Views of the contending Parties for Honour and Power, and are designedly produced. Keep but free Drink away, and the People will come with as much Calmness and Order to the Exchange, as they go to Church, and act at one Place with as much propriety as the other; and I doubt not the Affairs of the Town might this Way be easily put into a Train of perpetual Conduct, consistent with every Claim and rightful Accommodation of the Public and every Individual.

But there hath, Sir, been another Objection mentioned to me by a Gentleman of real Worth and Character (which gives me a Little of the Wonder.) Upon this Scheme of the COMMON-HALL, says he, none of the Gentlemen will give themselves any Concern in your Public Affairs; *Coblers and Tinkers must be Mayors, Bailiffs and Common-Council-men*: These are, to my Remembrance, the Terms the Gentleman made use of, or others of like Stile and Import: So that this Gentleman seems to think we are to persevere in an unconstitutional, *i. e.* illegal, precarious Administration of Affairs, wherein every *Cobler and Tinker* knows he may insult the Government, rather than restore the constitutional Form, whereby the whole Body of the Burgesses have it in their Power to elect a *Cobler or Tinker* into a Post of Honour or Trust, if they shall think fit to do so; which this Gentleman seems to believe will be the Case. If it may be reckoned not an Affront to be serious in such a Case, I would say, Never fear! The Gentleman himself is no great Enemy to Drollery; he knows very well the People of *Liverpool* know how to distinguish Men, and that there is no danger Gentlemen, that is, *Men of superior Worth*, will ever be excluded from the principal Share in the Conduct of their Affairs, which they will always endeavour shall be in the Hands of Men of distinguished Capacity, Erudition and Probity (and consequently superior Birth and Fortune, without which the other are not so usually found) such are, and such only deserve to be esteemed Gentlemen (I say this to a very good Judge) and such as these, I trust the Men of *Liverpool* will always endeavour to place at the Head of their common Affairs; and such as these, while a laudable desire to promote universal Good, is one solid Distinction of a Gentleman, will never disdain to serve the Public Offices, and protect and set forward the public Interests of this ANCIENT AND LOYAL CORPORATION.

From

From the Agency of Men of this Character, human Societies have risen to the greatest Dominion, Wealth, Power and Splendour; and under the Influence of opposite Principles and Tempers, the Ruin, Subversion and Destruction of the greatest States, Kingdoms and Empires have proceeded: And to regulate the Force of a most valuable Word in our Language, I make bold (I dare make bold with the Gentleman I now address) to say, That some of the greatest Names in *Greece* and *Rome* were not Gentlemen, till the Eminence of their Virtues in the Conduct of Public Affairs, gave them *that charming Character and Distinction*. If I were not writing to a *Gentleman of distinguished Judgment and Probity*, I might proceed; but less than I have already said, would I think have been sufficient to produce the Avowance of the Concurrence of your Sentiments with those of

SIR,

Your unworthy

But most cordial humble Servant,

Peter Whitfield.

S I R,

THE Prifage Revenue and the Application of it, has not only been Subject-matter of some Publications, but a great deal of Conversation; a Subject enlarged and commented upon, with Judgment and Impartiality by some, but with great Partiality by most, whose Inclinations have superseded their Judgment, as I believe is always the Case, with respect to Affairs which become the Subject of public Debate.

To you, Sir, I can cordially make some Allowance, the Ties of Blood, Affection, and Expectation, are strong Cords to occasion adhering to a Cause, so long as it's Head can be bore up and bolster'd with even the Shadow of Reason. This, Sir, I offer by way of Prelude to such Arguments as I desire to attempt handling.

I lay

I lay this down as a *Postulatum*, or Groundwork, That the Mayor, Bailiffs and Burgesſes, had a Right to, and were actually in Poſſeſſion of the Priſage Revenue in 1735; that the Grant by Virtue of which they claimed this Right, was not in Fee, but periodical; and when that Period expired, the Right and Power of that Revenue reverted to the Grantor, or his or her Succeſſors, who might then diſpoſe of it according to his or her own Will and Pleaſure. If I am right thus far, I humbly inſiſt, that the Mayor, Bailiffs and Burgeſſes, had a common (I do not call it either a prior or excluſive) Right, to apply for a Renewal of the ſaid Grant. That the Mayor, Bailiffs and Common Council are only Agents for the Burgeſſes, and as ſuch, had a Right, by the moſt prudent Method they could think of, to apply for a Renewal of the ſaid Grant; and as the Nature of their Truſt, ſtrengthened by a ſolemn Oath, obliges them to take all the prudential Steps which occur to their Minds, to promote the Intereſt of the Community they are in Truſt for, ſo they could not conſiſtently let the Term expire; they could not alienate the Burgeſſes Right or Pretention to it; nor did they ſo much as attempt it: but, on the contrary, they applied to Mr. *Brereton* and Mr. *Gildart*, their then Representatives in Parliament, and requeſted their Intereſt above, to procure the Renewal of the ſaid Priſage Grant; and it is plain to Demonſtration, that they had no other Intention or Deſign, than that ſuch Renewal ſhould be for the Uſe of the Mayor, Bailiffs and Burgeſſes; for had they intended it otherwiſe, there would have been no Occaſion for Mr. *Gildart*'s writing the Letter dated the 24th of *April*, 1736, under the Seal of Secreſy, juſt after the Warrant was obtained, and before the Patent was granted, or made out? the then Mayor was to know nothing of it, leaſt he ſhould counterwork the Scheme of the two Members, and thereby render them ineffectual to answer the intended Purpoſe.

There is an Order of Council to allow every ſucceeding Mayor, One Hundred Guineas to be paid him by the Corporation Treafurer, in lieu of the Priſage; and you know who was appointed by the Common Council to receive it, inſtead of the ſeveral Mayors, and he, as Collector of that Branch, gave Receipts for the Uſe of the Mayor, Bailiffs and Burgeſſes, after the Year 1736, in which the renewed Grant was obtained.

During the Time he collected this Money, to the Date of the new Grant, I preſume no Point of Law will place him in other Light than Agent for the Mayor, Bailiffs and Burgeſſes; and then Two Years Income of that Money, as it has not, ſo I think, it is to be accounted for,

to

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to the Public : but from 1736, about *April* or *May*, when the Grant bore Date, you, Sir, and some other Gentlemen of the Council pleaded his Right to account with Mr. *Brereton*, and no other Person ; because it is alledged the *legal* Right was in him, along with General *Cholmondely*. This may appear a conclusive Argument to some, but I am far from ranking you in that Number. If there is no Distinction made between Law and Equity, I presume there would be no Occasion for Two distinct Courts, One of them will undoubtedly answer the Burgesse's Expectations. It is a received Maxim, that the Law is founded upon Reason ; but it often happens, that Law Reason is attended by bad Guides, and those, wilfully so, are of the worst Kind.

In a Court of Equity, I apprehend this whole Affair will lie in a narrow Compass ; Proofs will not want to be fished out by tedious Examinations. The Case is to me plain, that the Mayor, Bailiffs and Burgessees, had both a legal and an equitable Right to the Prifage Grant, and that that Grant was neither given away, nor made Sale of ; that the Common Council applied to the Representatives of this Burrough in Parliament for their Interest to get a Renewal of it, in Favour of the Mayor, Bailiffs and Burgessees ; that one of the said Members, after the said Grant was promised, found Means to be secretly and clandestinely made the Grantee, along with a Person of his own naming, but unknown to the Gentleman many Years ; that the other Member was in the Secret of this clandestine Work, not barely so, but acting in Conjunction with him to defraud the Public, is easily proved by the Record he has made of it under his own Hand. This is the Foundation upon which *legal Right* is to be supported, for this Secret-keeper made no Discovery of this Affair to the Common Council, though he was one of the Members in Trust for the Burgessees ; that the Receiver of the said Prifage Revenue was so far entrusted with this Secret, as to continue the Collector of it, and that he past Receipts for the Use of the Mayor, Bailiffs and Burgessees ; that he afterwards brought the said Money to the Credit of a private Account, for Cash he had lent to the said principal Grantee, without the Approbation and Consent, or so much as the Knowledge of the Common Council, whereby it must clearly appear, that the public Estate of the Town was greatly impaired by the said Receiver of the Prifage Revenue's Connivance, to say no more, who was a Member of the Common Council at the same Time ; that when these Matters came in Part to be known to the Common Council, there was a Committee appointed to examine the Prifage Accounts, and that when the said Accounts came to be looked into, the Committee themselves (and

I do believe you one of them) were, by one Means or other, greatly imposed upon, and by being so, the Public intended to be deprived of £ 269, (exclusive of £ 498 9 0, the Ballance) which, by that Account, appeared to be due and owing to them; that the said Committee were further imposed upon and abused in stiling or titling the said Ballance as paid to the Use of the Mayor, Bailiffs and Burgeffes, on Account of Law Charges in defending the Corporation; whereas it plainly and clearly appears to be paid in Aid of private Debts, for Money lent to the Use of a private Person or Persons, upon Cash Notes and other Orders; all these Things, with many other Circumstances (very dark in themselves) can be fully proved, (and I make no Manner of doubt) to the Satisfaction of a Court of Equity, without leaving Perjury any Hole or Corner to lurk in.

Now, Sir, from what I have said, and I have put no one Truth to the Torture, what Opinion do you imagine Mankind in general can entertain of Gentlemen, who stile themselves Guardians and Trustees, who, (tho' they do not scruple to acknowledge that very bad Things have been done,) are so far from making the necessary Enquiry into these Affairs, in Order to bring every thing into a clear Light, as is most certainly a bounden Duty; to commence Pleadors in Favour of the Transactions, and thereby behave as if they would have the Orphans, for whom they are Guardians in Trust, believe, that Equity and Iniquity are synonymous Terms.

This, Sir, is far from being intended by me as an Appeal from, or to a Passion; The Manner in which I address it to your Notice, will I hope plead in my Favour. The Subject-matter of this Letter you must be much more a Stranger to than myself; the Council-book can only furnish you with the general Orders I have made mention of; the Transactions themselves, or Reasons for them, have not had, nor would they bear to have, Admittance there; it is possible you may have a more extensive Knowledge of these Affairs, than I am, or have been able, to let you and the Public know; but I have too great an Opinion of your Honour and Veracity to believe that is the Case. I was a Member of the Common Council when these Affairs were transacted, but along with my Brethren, cramm'd into the dark Hole of Deception, and it is very likely had remained there to this Time, if I had not met with the Countenance of the Gentlemen of the Council, by expressing their Uneasiness at being in the Dark about the Prifage Grant in 1748, which I have publicly made mention of, and, for all the pains I have taken to encrease their Knowledge in this Point,

Point, no Thanks. As to the best of my Knowledge, upon the maturest Reflection, I have not been sparing in the Mention of Truths to you, so neither have I attempted any way to disguise them; false Glosses are in my apprehension, no Decorations. You, Sir, as I understand, plead for the Affairs of the Town being conducted after the usual Manner, as much better than having riotous and tumultuous Assemblies. When it is considered how the Burgeses have behaved under the oppressive Measures they have so long complained against, and very justly; it is in my Opinion an Argument advanced against Demonstration; it is in my Apprehension, as much as saying, if we do them justice we shall drive them mad.

I believe you are no Stranger to it, that the Burgeses have begun one Prosecution, and I may venture to assure you, it will not be long before another is commenced. Place me, Sir, in what despicable Light you please; place the Burgeses Power in as diminutive an Attitude as their most inveterate Enemy can wish them to appear in; let their and mine ridiculous Situation be placed in Contrast with the exulting Power of the Common Council: but then please to consider that Body bereft of pleading constitutional Law and Power (which you acknowledge must be given up as indefensible) and then consider further, whether Capitulation is not preferable to holding on a Siege, when Ammunition is exhausted. By saying thus much, I hope you will be kind enough to consider me no Dictator to you, my Appeal is to your own Reason and Judgment of Matters; if to you my Arguments appear weak, it is from Want of Capacity to give Force and Energy to Truth: Sincerity I am sure I am Master of, and if you apprehend any Mixture of Gall towards you, I am sure it is not intended; it would be paying a wretched Compliment to the Friend, who is so kind to be the Bearer of this Epistle, and I hope the Importance of the Subject will apologize for the Length of it. I am still of Opinion, that the pacific Manner of sliding into the constitutional Track of conducting public Affairs is better to be adhered to, than too late wishing it had been so. Without Compliment I assure you I write this to a Gentleman I esteem, and have just Reason to acknowledge it, being,

S I R,

Your obliged humble Servant,

AUGUST 20, 1757.

Joseph Clegg.

I might have added, that the Corporation paid the Charge attending the Patent, and that Mr. *Salisbury* express'd his Resentment, upon a Supposition only, that he was thought to pocket the Prifage Revenue ; nor did he ever exprefs or pretend a Claim of Right to it. These Circumstances, added to the rest, serve only to render the whole more a Cheat than is already mentioned in the Letter.



F I N I S.

